



JOINT RULES INTERPRETING COMMISSION GUIDELINES

**Before the Public Service Commission of South Carolina
Docket No. 2005-191-E**

Presented by:

**South Carolina Electric & Gas Company
Duke Energy Carolinas, LLC
Progress Energy Carolinas, Inc.**

March 13, 2008

Commission Order 2007-626

- Commission concludes: benefit exists in testing market for available generation as additional option to a utility self-build proposal.
- RFPs are only mandatory for new peaking generation requirements
- Commission issues broad guidelines for RFPs

RFP Guidelines

- The utilities subject to this Order propose the Commission adopt the following rules to implement the broad guidelines issued by the Commission

New Peaking Generation Defined

- Traditional supply-side resources that are intended to operate at annual capacity factors below 10%

Exceptions to Use of RFPs

- Renewables
- Qualifying Facilities
- Demand-side Resources
- Additions of 75 MW or less
- Near-term Capacity Needs
 - less than 18 mos. away
- Capacity Needs of One Year or Less in Duration
- Opportunities to Bid for Capacity
- Upgrades or Repowering of Existing Facilities
- If 10% or More of the Utility's Generation Capacity is Already Being Purchased from Other Entities

The RFP Will Specify

- That a peaking resource is being requested
- The amount of capacity needed
- The date the capacity must be available
- The term of the need
- Timeline for the process
- Official contact information, including prohibition on other contacts
- Statement on confidentiality of bids
- The utility may revise its capacity needs forecast to reduce, eliminate, or increase the amount of power sought at any point during the RFP process or negotiations
- Such other information that the utility deems appropriate

Bids from Non-regulated Affiliates

- Bids from non-regulated affiliates of the utility must be submitted concurrent with the other bids
- No communication is allowed between the utility's RFP team and its non-regulated affiliate regarding RFP substance or process, except through the official communications channel for all bidders
- A bid from a non-regulated affiliate will not receive any undue preference in the utility's RFP evaluation process

Evaluation Criteria

- The utility will evaluate bids using quantitative and qualitative evaluation criteria including, but not limited to:
 - Price
 - Reliability
 - Scheduling flexibility
 - Creditworthiness of the bidder
 - In service date
- The utility may evaluate the bids received for purchase power alternatives against utility owned self-build alternatives
- Changes to criteria or analysis methods after bids are received is permitted, provided there is documentation as to why changes are necessary
- No independent bid evaluator is required

Short-list Bidders

- Short-list bidders may be selected if the number of bidders justifies a short list
- All bidders will be notified as to status (selected, not selected)
- The utility may request bidders to refresh / update bids

Successful Bidders

- A utility will enter into good faith negotiations with successful bidders to reach a mutually acceptable agreement, unless a change in circumstances occurs eliminating the need for peaking capacity

Audit by the Office of Regulatory Staff (ORS) / Action by the Commission

- At any time prior to the utility's decision, a bidding party may request ORS to audit the bid process
- Promptly upon completion of the bid evaluation process, the utility and ORS shall individually certify the fairness and transparency of the bid process and file such certifications with the Commission

Audit by the Office of Regulatory Staff (ORS) / Action by the Commission

- An unsuccessful bidder, who had previously requested ORS to audit the bid process, may make a complaint to the Commission not later than ten (10) working days after both the utility and ORS have filed their fairness certifications
- The complaint must contain specific factual allegations demonstrating a material deficiency in the bid solicitation or evaluation process that result in the complainant's bid not being given fair consideration

Audit by the Office of Regulatory Staff (ORS) / Action by the Commission

- No complaint may be filed until both ORS and the utility have filed their fairness certifications
- Upon receipt of such complaint, the Commission shall determine the utility's compliance with its RFP guidelines and justification of its decision
- Upon the Commission's initiative, but not later than thirty (30) days after the filing of the complaint, it may convene a complaint proceeding to affirm or overrule for good cause the utility's decision

Audit by the Office of Regulatory Staff (ORS) / Action by the Commission

- The Commission shall give deference to ORS' review and the utility's review and decision
- “Good cause” shall lie only upon a determination by the Commission that the utility has abused its discretion
- The Commission shall issue its order in any such complaint proceeding within thirty (30) days of the hearing
- If no complaint is filed within the above-prescribed ten (10) day timeframe, the utility's decision will stand

Waiver Provision

- The utility may make application to the Commission for a waiver of the RFP guidelines at any time upon good cause shown

Questions

